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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER

YIGDALL, MICHAEL J

ART UNIT	PAPER NUMBER
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2122

DATE MAILED: 07/16/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/865,441

Applicant(s)

GRUMANN, DOUG

Examiner

Michael J. Yigdall

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 May 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 May 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 01/13/03
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

DETAILED ACTION

1. Claims 1-20 are pending and have been examined. The priority date considered for the application is May 29, 2001.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1- 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Pat. No. 5,590,056 to Barritz.

With respect to claim 1, Barritz discloses a method for automatically configuring performance management software in a computer system (see the title and abstract), comprising:

(a) inventorying applications and performance management tools (see column 4, lines 44-47, which shows surveying or inventorying program modules or applications);

(b) generating an inventory list of the applications and the performance management tools (see column 5, lines 13-34, which shows generating a list of names, i.e. an inventory list, of the program modules);

(c) using the inventory list, generating a performance management tools configuration (see column 5, lines 30-34, which shows using the list of names to generate a system configuration log); and

(d) restarting the performance management software to engage the configuration of the performance management tools (see column 9, lines 12-22, which shows starting or restarting the monitoring program, i.e. the performance management software, after generating the system configuration log).

Although Barritz discloses surveying or inventorying the program modules present on a computer system (see column 5, lines 5-12) and a performance monitoring or management tool (see monitoring program 22 in FIG. 1), Barritz does not expressly disclose inventorying and generating an inventory list of performance management tools.

However, it would have been obvious to one of ordinary skill in the art at the time the invention was made that the inventorying taught by Barritz includes inventorying performance management tools, because such performance management tools themselves are applications or program modules that would be identified.

With respect to claim 2, Barritz further discloses the limitation wherein the method is executed upon start up of the computer system (see column 4, lines 53-56, which shows executing the method when it is first introduced on a computer system, i.e. upon startup).

With respect to claim 3, Barritz further discloses the limitation wherein the method is executed on demand (see column 4, lines 50-53, which shows executing the method by an operator or interactive user, i.e. on demand).

With respect to claim 4, Barritz further discloses the limitation wherein the method is executed periodically (see column 4, lines 50-53, which shows executing the method periodically).

With respect to claim 5, Barritz further discloses the limitation wherein the method is executed automatically (see column 4, lines 50-53, which shows executing the method by another program, i.e. automatically).

With respect to claim 6, Barritz further discloses the limitation wherein the step of generating the inventory list comprises writing inventory information to an ASCII-format file (see column 9, lines 34-40, which shows writing the inventory information such that it may be displayed and manipulated by well-known programs).

Although Barritz does not expressly disclose an ASCII-format file, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use an ASCII-format file for information that is to be displayed and manipulated by well-known programs.

With respect to claim 7, Barritz further discloses the limitation wherein the step of generating the configuration file comprises specifying one or more of collection parameters, application-specific interfaces, performance thresholds, and alarms applicable to specific performance management tools (see column 9, lines 55-62, which shows specifying collection parameters for a monitoring program, i.e. a performance management tool).

With respect to claim 8, Barritz further discloses the limitation wherein the inventory step comprises inventorying installed application programs and installed performance management tools (see column 9, lines 27-29, which shows surveying or inventorying products installed on the computer system).

With respect to claim 9, Barritz further discloses inventorying active application programs and active performance management tools, wherein the active application programs and performance management tools are flagged to indicate an active status (see column 6, line 58 to column 7, line 12, which shows recording or inventorying active program modules and recording or flagging relevant status information).

With respect to claim 10, Barritz further discloses:

(a) manually amending the inventory list (see column 11, lines 16-25, which shows manually amending the list of products, i.e. the inventory list, by the user); and

(b) repeating the step of generating the performance management tools configuration (see column 11, line 63 to column 12, line 4, which shows repeating the step of generating the system configuration log).

With respect to claim 11, Barritz further discloses storing the inventory list and the performance management tools configuration in a memory (see column 5, lines 35-40, which shows storing the system configuration log and other information in a memory).

With respect to claim 12, Barritz discloses an apparatus that configures performance management tools in a computer system (see the title and abstract), comprising:

(a) a registry that reads information from hardware devices, application programs, and performance management programs (see surveying program 12 in FIG. 1 and column 5, lines 13-34, which shows reading information from hardware storage devices and program modules or applications);

(b) a kernel coupled to the registry that receives the information read by the registry and writes the information to an inventory file (see reporting program 60 in FIG. 1 and column 8, lines 43-63, which shows writing the information to an inventory report or file);

(c) a file generator that receives the inventory file and information related to the computer system and generates a performance management tools configuration file (see column 5, lines 30-34, which shows receiving a list of program modules, i.e. an inventory file, and generating a system configuration log); and

(d) an operating system that restarts the performance management programs after generation of the configuration file (see operating system 24 in FIG. 1 and column 9, lines 12-22, which shows starting or restarting the monitoring program, i.e. the performance management program, after generating the system configuration log).

Although Barritz discloses surveying or inventorying the program modules present on a computer system (see column 5, lines 5-12) and a performance monitoring or management tool (see monitoring program 22 in FIG. 1), Barritz does not expressly disclose inventorying and generating an inventory list of performance management tools.

However, it would have been obvious to one of ordinary skill in the art at the time the invention was made that the inventorying taught by Barritz includes inventorying performance management tools, because such performance management tools themselves are applications or program modules that would be identified.

With respect to claim 13, Barritz further discloses the limitation wherein the registry reads the information from hardware devices, application programs, and performance management programs automatically upon startup of the computer system (see column 4, lines

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53-56, which shows executing the method when it is first introduced on a computer system, i.e. upon startup).

With respect to claim 14, Barritz further discloses the limitation wherein the registry reads the information automatically and periodically during operation of the computer system (see column 4, lines 50-53, which shows reading the information periodically).

With respect to claim 15, Barritz further discloses the limitation wherein the inventory file is an ASCII-format file (see column 9, lines 34-40, which shows writing the inventory information such that it may be displayed and manipulated by well-known programs).

Although Barritz does not expressly disclose an ASCII-format file, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use an ASCII-format file for information that is to be displayed and manipulated by well-known programs.

With respect to claim 16, Barritz further discloses the limitation wherein the hardware devices, application programs and performance management tools are installed in the computer system (see column 9, lines 27-29, which shows surveying or inventorying products installed on the computer system).

With respect to claim 17, Barritz further discloses the limitation wherein one or more of the installed hardware devices, application programs and performance management tools are active, and wherein the kernel flags the active hardware devices, application programs and performance management tools (see column 6, line 58 to column 7, line 12, which shows

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recording or inventorying active program modules and recording or flagging relevant status information).

With respect to claim 18, Barritz further discloses an interface that provides manual updating of the inventory file (see column 11, lines 16-25, which shows manually updating the list of products, i.e. the inventory file, by the user).

With respect to claim 19, Barritz discloses a method for configuring performance management tools in a computer environment (see the title and abstract), comprising:

(a) discovering installed application programs in the computer environment (see column 9, lines 27-29, which shows determining or discovering products installed on the computer system);

(b) discovering installed performance management tools in the computer environment (see column 9, lines 27-29, which shows determining or discovering products installed on the computer system);

(c) discovering active application programs in the computer environment (see column 6, line 58 to column 7, line 12, which shows recording or discovering active program modules);

(d) discovering active performance management tools in the computer environment (see column 6, line 58 to column 7, line 12, which shows recording or discovering active program modules);

(e) generating an inventory file of the installed and the active application programs and performance management tools, wherein the active application programs and performance management tools are flagged (see column 5, lines 13-34, which shows generating a list of

names, i.e. an inventory file, of the program modules, and column 6, line 58 to column 7, line 12, which shows recording or flagging relevant status information for the active program modules);

(f) generating a performance management tools configuration file based on features of the computer environment and the inventory file (see column 5, lines 30-34, which shows generating a system configuration log based on the environment knowledge base and the inventory); and

(g) restarting the performance management tools to engage the performance management tools (see column 9, lines 12-22, which shows starting or restarting the monitoring program, i.e. the performance management tool, after generating the system configuration log).

Although Barritz discloses surveying or discovering the program modules present on a computer system (see column 5, lines 5-12) and a performance monitoring or management tool (see monitoring program 22 in FIG. 1), Barritz does not expressly disclose discovering and generating an inventory file of performance management tools.

However, it would have been obvious to one of ordinary skill in the art at the time the invention was made that the discovering taught by Barritz includes discovering performance management tools, because such performance management tools themselves are applications or program modules that would be identified.

With respect to claim 20, Barritz further discloses the limitation wherein the discovering steps are performed automatically on startup of the computer environment (see column 4, lines 53-56, which shows performing the method when it is first introduced on a computer system, i.e. upon startup), and further comprising:

(a) manually amending the inventory file (see column 11, lines 16-25, which shows manually amending the list of products, i.e. the inventory file, by the user);

(b) regenerating the performance management tools configuration file (see column 11, line 63 to column 12, line 4, which shows repeating the step of generating, i.e. regenerating, the system configuration log); and

(c) restarting the performance management tools to engage the performance management tools, wherein the restarting step is performed after the regenerating step (see column 9, lines 12-22, which shows starting or restarting the monitoring program, i.e. the performance management tool, after generating the system configuration log).

Conclusion

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. U.S. Pat. No. 5,867,659 to Otteson discloses a system for monitoring events and configuring the event monitor. U.S. Pat. No. 6,167,538 to Neufeld et al. discloses a system for monitoring the performance of components recognized in a computer system. U.S. Pat. No. 5,444,642 to Montgomery et al. discloses a system for monitoring events and automatically configuring the monitor.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael J. Yigdall whose telephone number is (703) 305-0352. The examiner can normally be reached on Monday through Friday from 7:30am to 4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tuan Q. Dam can be reached on (703) 305-4552. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

MY

Michael J. Yigdall
Examiner
Art Unit 2122

mjy



**ANTONY NGUYEN-BA
PRIMARY EXAMINER**